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EU News: Click & Read

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European Documentation Centre

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This newsletter contains a selection of recent official documents of the European Union. It features information of particular interest to Swiss readers and aims to provide universities, cantonal and federal administrations, legal professionals, as well as corporations with information about the latest legal developments in the European Union. Written in English or French, the newsletter offers links to documents in one of those languages.

We hope you will find this issue both useful and a pleasure to read.

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Case C-435/22 PPU. Judgment of the Court (Grand Chamber) of 28 October 2022. Criminal proceedings against HF. Request for a preliminary ruling from the Oberlandesgericht München.

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Judicial cooperation in criminal matters – Charter of Fundamental Rights of the European Union – Article 50 – Convention implementing the Schengen Agreement – Article 54 – **Principle ne bis in idem – Extradition agreement between the European Union and the United States of America** – Extradition of a third-country national to the United States under a bilateral treaty concluded by a Member State – **National who has been convicted by final judgment for the same acts and has served his sentence in full in another Member State.**

[EUR-Lex - 62022CJ0435](#)

Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union

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Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act)

[EUR-Lex - 32022R2065](#)

Case C-713/20. Judgment of the Court (Second Chamber) of 13 October 2022. Raad van bestuur van de Sociale verzekeringsbank and Y v X and Raad van bestuur van de Sociale verzekeringsbank. Request for a preliminary ruling from the Centrale Raad van Beroep.

Reference for a preliminary ruling – **Social security for migrant workers** – Regulation (EC) No 883/2004 – Article 11(3)(a) and (e) – Person residing in one Member State and employed in another Member State – Employment contract or contracts entered into with a single temporary employment agency – Temporary work assignments – Intervening periods – **Termination of the legislation applicable during intervening periods between temporary work assignments** – Termination of the employment relationship.

[EUR-Lex - 62020CJ0713](#)

1. EU-Swiss Relations

Nothing to report for the period under review.

2. External Relations / Foreign Policy

Community Legislation

Regulation (EU) 2022/2039 of the European Parliament and of the Council of 19 October 2022 amending Regulations (EU) No 1303/2013 and (EU) 2021/1060 as regards additional flexibility to address the consequences of the military aggression of the Russian Federation FAST (Flexible Assistance for Territories) – CARE

[EUR-Lex - 32022R2039](#)

Council Decision (CFSP) 2022/1968 of 17 October 2022 on a European Union Military Assistance Mission in support of Ukraine (EUMAM Ukraine)

[EUR-Lex - 32022D1968](#)

Council Decision (EU) 2022/1987 of 13 October 2022 on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Government of Malaysia, of the other part

[EUR-Lex - 32022D1987](#)

3. Agriculture and Fisheries / Maritime Affairs

Nothing to report for the period under review.

4. Audiovisual and Media and Information Society

Community Legislation

Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act)

[EUR-Lex - 32022R2065](#)

Case Law

Affaire C-129/21. Arrêt de la Cour (quatrième chambre) du 27 octobre 2022. Proximus NV contre Gegevensbeschermingsautoriteit. Demande de décision préjudicielle, introduite par le Hof van beroep te Brussel.

Renvoi préjudiciel – **Traitement des données à caractère personnel et protection de la vie privée dans le secteur des communications électroniques** – Directive 2002/58/CE – Article 12 – Annuaire publics et services de renseignements téléphoniques – Consentement de l’abonné – **Obligations du fournisseur des annuaires et des services de renseignement** – Règlement (UE) 2016/679 – Article 17 – Droit à l’effacement (“droit à l’oubli”) – Article 5, paragraphe 2 – Article 24 – Obligations d’information et responsabilité du responsable du traitement.

[EUR-Lex - 62021CJ0129](#)

Case C-411/21. Judgment of the Court (Seventh Chamber) of 27 October 2022. Instituto do Cinema e do Audiovisual, I.P. v NOWO Communications, S.A.

Reference for a preliminary ruling – Article 56 TFEU – Freedom to provide services – Services consisting in the creation and production of cinematographic and audiovisual works – Operators of subscription television services – **Subscription fee payable by subscription television operators** – Allocation of the revenue from the fee – **Restriction** – Effects too uncertain or too indirect.

[EUR-Lex - 62021CJ0411](#)

Affaire C-77/21. Arrêt de la Cour (première chambre) du 20 octobre 2022. Digi Távközlési és Szolgáltató Kft. contre Nemzeti Adatvédelmi és Információszabadság Hatóság. Demande de décision préjudicielle, introduite par Fővárosi Törvényszék.

Renvoi préjudiciel – **Protection des personnes physiques à l’égard du traitement des données à caractère personnel** – Règlement (UE) 2016/679 – Article 5, paragraphe 1, sous b) et e) – Principe de la “limitation des finalités” – **Principe de la “limitation de la conservation”** – Création, à partir d’une base de données existante, d’une base de données pour effectuer des tests et corriger des erreurs – Traitement ultérieur des données – Compatibilité du traitement ultérieur de ces données avec les finalités de la collecte initiale – Durée de conservation au regard de ces finalités.

[EUR-Lex - 62021CJ0077](#)

5. Competition and State Aid

Case Law

Case C-721/20. Judgment of the Court (Fourth Chamber) of 27 October 2022. DB Station & Service AG v ODEG Ostdeutsche Eisenbahn GmbH. Request for a preliminary ruling from the Kammergericht Berlin.

Reference for a preliminary ruling – Rail transport – Article 102 TFEU – Abuse of a dominant position – Directive 2001/14/EC – **Access to railway infrastructure** – Article 30 – Railway regulatory body – Review of infrastructure charges – National courts – **Review of charges in the light of competition law** – Division of competence between the regulatory authority and the national courts.

[EUR-Lex - 62020CJ0721](#)

6. Customs

Nothing to report for the period under review.

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

Regulation (EU) 2022/2036 of the European Parliament and of the Council of 19 October 2022 amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the **prudential treatment of global systemically important institutions with a multiple-point-of-entry resolution strategy and methods for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities**

[EUR-Lex - 32022R2036](#)

Case Law

Case C-641/21. Judgment of the Court (Eighth Chamber) of 27 October 2022. Climate Corporation Emissions Trading GmbH v Finanzamt Österreich.

Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 44 – Point of reference for tax purposes – **Transfer of greenhouse gas emission allowances – Recipient involved in VAT evasion in a chain of transactions** – Taxable person who knew or should have known about that evasion.

[EUR-Lex - 62021CJ0641](#)

Case C-406/21. Judgment of the Court (Tenth Chamber) of 20 October 2022. A Oy v B Ky and C:n kuolinpesä. Request for a preliminary ruling from the Korkein oikeus.

Reference for a preliminary ruling – **Combating late payment in commercial transactions** – Directive 2011/7/EU – Article 12(4) – Temporal scope – Practice established before 16 March 2013 consisting in not recovering interest for late payment or compensation for recovery costs – Practice applied to individual orders placed on or after that date – Article 7(2) and (3) – **Grossly unfair contractual terms and practices** – Waiver freely agreed to.

[EUR-Lex - 62021CJ0406](#)

Case C-295/21. Judgment of the Court (Eighth Chamber) of 20 October 2022. Allianz Benelux SA v État belge, SPF Finances. Request for a preliminary ruling from the Cour d'appel de Bruxelles.

Reference for a preliminary ruling – Common system of taxation applicable in the case of parent companies and subsidiaries of different Member States – Directive 90/435/EEC – Article 4(1) – **Exemption in favour of a parent company of the dividends paid by its subsidiary** – Carrying over definitively taxed income surpluses to subsequent tax years – Absorption of a company with definitively taxed income surpluses by another company – National legislation limiting the transfer of those surpluses to the absorbing company.

[EUR-Lex - 62021CJ0295](#)

Affaire C-473/20. Arrêt de la Cour (première chambre) du 20 octobre 2022. « Invest Fund Management » AD contre Komisija za finansov nadzor. Demande de décision préjudicielle, introduite par le Sofijski rayonen sad.

Renvoi préjudiciel – Rapprochement des législations – Directive 2009/65/CE – **Organismes de placement collectif en valeurs mobilières (OPCVM)** – Sociétés de gestion d'OPCVM – **Obligations concernant l'information des investisseurs** – Article 72 – Obligation de mise à jour des “éléments essentiels du prospectus” – Portée – Article 69, paragraphe 2 – Renseignements mentionnés dans le schéma A de l'annexe I – Composition d'un organe de la société de gestion – Article 99 bis, sous r) – Transposition dans l'ordre juridique des États membres – Réglementation nationale étendant les situations dans lesquelles une infraction relative à la mise à jour du prospectus peut être constatée et sanctionnée.

[EUR-Lex - 62020CJ0473](#)

Case C-677/20. Judgment of the Court (Grand Chamber) of 18 October 2022. Industriegewerkschaft Metall (IG Metall) and ver.di - Vereinte Dienstleistungsgewerkschaft v SAP SE and SE-Betriebsrat der SAP SE. Request for a preliminary ruling from the Bundesarbeitsgericht.

Reference for a preliminary ruling – Social policy – European company – Directive 2001/86/EC – **Involvement of employees in decision-making within the European company** – Article 4(4) – European company established by means of transformation – Content of the negotiated agreement – Election of employees' representatives as members of the Supervisory Board – Election procedure providing for a separate ballot in respect of the trade union representatives.

[EUR-Lex - 62020CJ0677](#)

Case C-1/21. Judgment of the Court (Seventh Chamber) of 13 October 2022. MC v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ Veliko Tarnovo pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite. Request for a preliminary ruling from the Administrativen sad Veliko Tarnovo.

Reference for a preliminary ruling – Value added tax (VAT) – Directive 2006/112/EC – Article 273 – Measures to ensure the correct collection of VAT – Article 325(1) TFEU – **Obligation to counter illegal activities affecting the financial interests of the European Union** – VAT debts of a taxable legal person – **National legislation which provides for the joint and several liability of the non-taxable manager of the legal person** – Transfers made in bad faith by the manager – Depletion of the legal person’s assets leading to insolvency – Failure to pay the amounts of VAT payable by the legal person within the prescribed time limits – Default interest – Proportionality.

[EUR-Lex - 62021CJ0001](#)

Case C-397/21. Judgment of the Court (Seventh Chamber) of 13 October 2022. HUMDA Magyar Autó-Motorsport Fejlesztési Ügynökség Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága. Request for a preliminary ruling from the Fővárosi Törvényszék.

Request for a preliminary ruling – Harmonisation of fiscal legislation – Common system of value added tax (VAT) – Directive 2006/112/EC – Sales which are not subject to VAT – VAT unduly invoiced and paid – Liquidation of the provider – **Refusal by the tax authority to refund to the customer VAT improperly paid** – Principles of effectiveness, tax neutrality and non-discrimination.

[EUR-Lex - 62021CJ0397](#)

Case C-293/21. Judgment of the Court (Tenth Chamber) of 6 October 2022. UAB „Vittamed technologijos“, en liquidation v Valstybinė mokesčių inspekcija. Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas.

Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Deductions of input VAT – Goods and services used by the taxable person to produce capital goods – Articles 184 to 187 – Adjustment of deductions – **Obligation to adjust deductions of VAT in the event of that taxable person being placed in liquidation and removed from the register of VAT payers.**

[EUR-Lex - 62021CJ0293](#)

Case C-250/21. Judgment of the Court (Fourth Chamber) of 6 October 2022. Szef Krajowej Administracji Skarbowej v O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O S.A. Request for a preliminary ruling from the Naczelny Sąd Administracyjny.

Reference for a preliminary ruling – Taxation – **Value added tax (VAT)** – Directive 2006/112/EC – **Supply of services for consideration** – Exemptions – Article 135(1)(b) – Granting of credit – Sub-participation agreement.

[EUR-Lex - 62021CJ0250](#)

Joined Cases C-433/21 and C-434/21. Judgment of the Court (Eighth Chamber) of 6 October 2022. Agenzia delle Entrate v Contship Italia SpA. Requests for a preliminary ruling from the Corte suprema di cassazione.

References for a preliminary ruling – Direct taxation – **Freedom of establishment** – Corporate income tax – **Measures to prevent tax avoidance by shell companies** – Determination of taxable income on the basis of presumed minimum income – Exclusion from the scope of those measures of companies and entities listed on national regulated markets.

[EUR-Lex - 62021CJ0433](#)

8. Education, Training, Youth, Culture, Research and Innovation

Nothing to report for the period under review.

9. Employment and Social Affairs

Community Legislation

Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union

[EUR-Lex - 32022L2041](#)

10. Case Law

Affaire C-604/20. Arrêt de la Cour (troisième chambre) du 20 octobre 2022. ROI Land Investments Ltd contre FD. Demande de décision préjudicielle, introduite par le Bundesarbeitsgericht.

Renvoi préjudiciel – Coopération judiciaire en matière civile – Règlement (UE) no 1215/2012 – Article 6 – **Défendeur non domicilié dans un État membre** – Article 17 – Compétence en matière de contrats conclus par les consommateurs – **Notion d’“activité professionnelle”** – Article 21 – Compétence en matière de contrats individuels de travail – Notion d’“employeur” – Lien de subordination – Règlement (CE) no 593/2008 – Loi applicable – Article 6 – Contrat individuel de travail – **Accord de garantie conclu entre le travailleur et une société tierce assurant l’exécution des obligations incombant à l’employeur envers ce travailleur.**

[EUR-Lex - 62020CJ0604](#)

Case C-199/21. Judgment of the Court (Seventh Chamber) of 13 October 2022. DN v Finanzamt Österreich. Request for a preliminary ruling from the Bundesfinanzgericht.

Reference for a preliminary ruling – Social security – Regulation (EC) No 883/2004 – Articles 67 and 68 – Family benefits – Right to benefits under a pension – **Pensioner in receipt of pensions from two Member States** – Member State(s) in which that pensioner is entitled to family benefits – Regulation (EC) No 987/2009 – Third sentence of Article 60(1) – Legislation of a Member State providing for the award of family benefits to the parent who has taken the child into his or her household – Failure by that parent to claim the award of those benefits – Obligation to take into account the application submitted by the other parent – Request for the recovery of family benefits paid to the other parent – Whether permissible.

[EUR-Lex - 62021CJ0199](#)

Case C-713/20. Judgment of the Court (Second Chamber) of 13 October 2022. Raad van bestuur van de Sociale verzekeringsbank and Y v X and Raad van bestuur van de Sociale verzekeringsbank. Request for a preliminary ruling from the Centrale Raad van Beroep.

Reference for a preliminary ruling – **Social security for migrant workers** – Regulation (EC) No 883/2004 – Article 11(3)(a) and (e) – Person residing in one Member State and employed in another Member State – Employment contract or contracts entered into with a single temporary employment agency – Temporary work assignments – Intervening periods – **Determination of the legislation applicable during intervening periods between temporary work assignments** – Termination of the employment relationship.

[EUR-Lex - 62020CJ0713](#)

Case C-64/21. Judgment of the Court (Third Chamber) of 13 October 2022. Rigall Arteria Management Sp. z o.o. sp. k. v Bank Handlowy w Warszawie S.A. Request for a preliminary ruling from the Sąd Najwyższy.

Reference for a preliminary ruling – Directive 86/653/EEC – Article 7(1)(b) – Self-employed commercial agents – Transaction concluded with a third party whom the commercial agent has previously acquired as a customer – Remuneration – **Whether the agent’s right to commission is mandatory or supplementary.**

[EUR-Lex - 62021CJ0064](#)

Case C-344/20. Judgment of the Court (Second Chamber) of 13 October 2022. L.F. v S.C.R.L. Request for a preliminary ruling from the Tribunal du travail francophone de Bruxelles.

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Establishment of a general framework for equal treatment in employment and occupation – **Prohibition of discrimination on the ground of religion or belief – Internal rule of a private undertaking prohibiting any manifestation, in the workplace, of religious, philosophical or political belief** – Prohibition including words, clothing, or any other means of manifesting those beliefs – Wearing of an item of religious clothing.

[EUR-Lex - 62020CJ0344](#)

11. Energy and Environment

Nothing to report for the period under review.

12. Food Safety, Public Health and Consumers

Case Law

Case C-418/21. Judgment of the Court (Second Chamber) of 27 October 2022. Orthomol pharmazeutische Vertriebs GmbH v Verband Sozialer Wettbewerb eV.

Reference for a preliminary ruling – Food safety – Food – Regulation (EU) No 609/2013 – Article 2(2)(g) – Delegated Regulation (EU) 2016/128 – **Food for special medical purposes** – Other particular nutritional requirements – Food providing a general benefit for the patient – **Distinction in relation to medicinal products.**

[EUR-Lex - 62021CJ0418](#)

Case C-485/21. Judgment of the Court (Eighth Chamber) of 27 October 2022. „S. V.“ OOD v E. Ts. D.

Reference for a preliminary ruling – Consumer protection – Directive 93/13/EEC – Unfair terms in consumer contracts – Article 2(b) – **Concept of ‘consumer’** – Article 2(c) – Concept of ‘seller or supplier’ – **Natural person who owns an apartment in a building in co-ownership** – Different types of legal relationships relating to the management and maintenance of that building – Difference in treatment, as regards the status of consumer, arising from the law of a Member State between co-owners who have concluded an individual contract for the management and maintenance of the communal areas of such a building and those who have not concluded such a contract.

[EUR-Lex - 62021CJ0485](#)

Case C-616/20. Judgment of the Court (Second Chamber) of 13 October 2022. M2Beauté Cosmetics GmbH v Bundesrepublik Deutschland. Request for a preliminary ruling from the Verwaltungsgericht Köln.

Reference for a preliminary ruling – Medicinal products for human use – Directive 2001/83/EC – Article 1(2)(b) – **Concept of ‘medicinal product by function’** – No scientific study – Scientific knowledge on a structural analogue – Regulation (EC) No 1223/2009 – Cosmetic product – Specific beneficial effects on human health – Direct or indirect beneficial effects – Positive effects on appearance.

[EUR-Lex - 62020CJ0616](#)

13. Human Rights

Case Law

Case C-435/22 PPU. Judgment of the Court (Grand Chamber) of 28 October 2022. Criminal proceedings against HF. Request for a preliminary ruling from the Oberlandesgericht München.

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Judicial cooperation in criminal matters – Charter of Fundamental Rights of the European Union – Article 50 – Convention implementing the Schengen Agreement – Article 54 – **Principle ne bis in idem – Extradition agreement between the European Union and the United States of America** – Extradition of a third-country national to the United States under a bilateral treaty concluded by a Member State – **National who has been convicted by final judgment for the same acts and has served his sentence in full in another Member State.**

[EUR-Lex - 62022CJ0435](#)

Affaire C-129/21. Arrêt de la Cour (quatrième chambre) du 27 octobre 2022. Proximus NV contre Gegevensbeschermingsautoriteit. Demande de décision préjudicielle, introduite par le Hof van beroep te Brussel.

Renvoi préjudiciel – **Traitement des données à caractère personnel et protection de la vie privée dans le secteur des communications électroniques** – Directive 2002/58/CE – Article 12 – Annuaire publics et services de renseignements téléphoniques – Consentement de l’abonné – Obligations du fournisseur des annuaires et des services de renseignement – Règlement (UE) 2016/679 – Article 17 – **Droit à l’effacement (“droit à l’oubli”)** – Article 5, paragraphe 2 – Article 24 – Obligations d’information et responsabilité du responsable du traitement.

[EUR-Lex - 62021CJ0129](#)

Affaire C-306/21. Arrêt de la Cour (huitième chambre) du 20 octobre 2022. Komisia za zashtita na lichnite danni et Tsentralna izbiratelna komisija contre Koalitsia « Demokratichna Bulgaria – Obedinenie ». Demande de décision préjudicielle, introduite par le Varhoven administrativen sad.

Renvoi préjudiciel – Protection des données à caractère personnel – **Règlement (UE) 2016/679** – Champ d’application – Article 2, paragraphe 2, sous a) – Notion d’“activité qui ne relève pas du champ d’application du droit de l’Union” – Élections nationales et européennes – Article 6, paragraphe 1, sous e) – Licéité du traitement – Article 58 – **Acte adopté par les autorités de contrôle limitant, ou le cas échéant, interdisant l’enregistrement vidéo du dépouillement du scrutin dans les locaux électoraux.**

[EUR-Lex - 62021CJ0306](#)

Affaire C-301/21. Arrêt de la Cour (sixième chambre) du 20 octobre 2022. Curtea de Apel Alba Iulia e.a. contre YF e.a. Demande de décision préjudicielle, introduite par la Curtea de Apel Oradea.

Renvoi préjudiciel – Politique sociale – Égalité de traitement en matière d’emploi et de travail – Directive 2000/78/CE – Article 2, paragraphes 1 et 2 – **Interdiction de discrimination fondée sur l’âge** – Réglementation nationale ayant pour effet que le traitement perçu par certains magistrats est plus élevé que celui d’autres magistrats de même rang et exerçant les mêmes fonctions – Article 1er – Objet – Caractère exhaustif des discriminations énumérées.

[EUR-Lex - 62021CJ0301](#)

Case C-344/20. Judgment of the Court (Second Chamber) of 13 October 2022. L.F. v S.C.R.L. Request for a preliminary ruling from the Tribunal du travail francophone de Bruxelles.

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Establishment of a general framework for equal treatment in employment and occupation – **Prohibition of discrimination on the ground of religion or belief – Internal rule of a private undertaking prohibiting any manifestation, in the workplace, of religious, philosophical or political belief** – Prohibition including words, clothing, or any other means of manifesting those beliefs – Wearing of an item of religious clothing.

[EUR-Lex - 62020CJ0344](#)

Case C-241/21. Judgment of the Court (Second Chamber) of 6 October 2022. I. L. v Politsei- ja Piirivalveamet. Request for a preliminary ruling from the Riigikohus.

Reference for a preliminary ruling – Directive 2008/115/EC – **Return of illegally staying third-country nationals** – Article 15(1) – Detention – Grounds for detention – General criterion based on the risk that the effective enforcement of the removal would be compromised – Risk that the person concerned would commit a criminal offence – Consequences of the establishment of the offence and the imposition of a penalty – Complication of the removal process – Article 6 of the Charter of Fundamental Rights of the European Union – **Restriction of the fundamental right to liberty** – Requirement of a legal basis – Requirements of clarity, predictability and accessibility – Protection against arbitrariness.

[EUR-Lex - 62021CJ0241](#)

14. Internal Market and Free Movement

Case Law

Joined Cases C-68/21 and C-84/21. Judgment of the Court (Sixth Chamber) of 27 October 2022. Iveco Orecchia SpA v APAM Esercizio SpA and Brescia Trasporti SpA. Requests for a preliminary ruling from the Consiglio di Stato.

References for a preliminary ruling – Approximation of laws – **Motor vehicles** – Directive 2007/46/EC – Technical specifications – **Offer to supply spare parts equivalent to the originals of a specific mark** – Absence of proof of type-approval – Declaration of equivalence to the original by the tenderer – Concept of ‘manufacturer’ – Means of proof – Public procurement – Directive 2014/25/EU.

[EUR-Lex - 62021CJ0068](#)

Case C-411/21. Judgment of the Court (Seventh Chamber) of 27 October 2022. Instituto do Cinema e do Audiovisual, I.P. v NOWO Communications, S.A.

Reference for a preliminary ruling – Article 56 TFEU – Freedom to provide services – Services consisting in the creation and production of cinematographic and audiovisual works – Operators of subscription television services – **Subscription fee payable by subscription television operators** – Allocation of the revenue from the fee – **Restriction** – Effects too uncertain or too indirect.

[EUR-Lex - 62021CJ0411](#)

Affaire C-544/21. Arrêt de la Cour (neuvième chambre) du 27 octobre 2022. ID contre Stadt Mainz.

Renvoi préjudiciel – Libre prestation des services – Directive 2006/123/CE – Article 15, paragraphe 1, paragraphe 2, sous g), et paragraphe 3 – Services dans le marché intérieur – **Honoraires des architectes et des ingénieurs** – Tarifs minimaux obligatoires – **Effet direct des dispositions du droit de l’Union et inapplicabilité éventuelle de la réglementation nationale.**

[EUR-Lex - 62021CJ0544](#)

Affaire C-362/21. Arrêt de la Cour (dixième chambre) du 20 octobre 2022. « Ekofrukt » EOOD contre Direktor na Direktsia « Obzhalvane i danachno-osiguritelna praktika » – Veliko Tarnovo. Demande de décision préjudicielle, introduite par l’Administrativen sad Veliko Tarnovo.

Renvoi préjudiciel – Marché intérieur – Règlement (UE) no 910/2014 – Article 3, point 12 – Notion de “signature électronique qualifiée” – Article 25, paragraphe 1 – Article 26 – Annexe I – Effets juridiques des signatures électroniques – **Exigences relatives à une signature électronique avancée** – Acte administratif établi sous la forme d’un document électronique dont la signature électronique ne répond pas aux exigences d’une “signature électronique qualifiée” – Exigences cumulatives – Conséquences – Article 3, point 15 – Absence de “certificat qualifié de signature électronique” – Inscription d’une signature électronique qualifiée dans le certificat délivré par le prestataire de services de confiance – Effet – Noms du titulaire de la signature électronique ayant fait l’objet d’une translittération dans l’alphabet latin au lieu de leur écriture habituelle en caractères cyrilliques.

[EUR-Lex - 62021CJ0362](#)

Affaire C-585/20. Arrêt de la Cour (troisième chambre) du 20 octobre 2022. BFF Finance Iberia SAU contre Gerencia Regional de Salud de la Junta de Castilla y León. Demande de décision préjudicielle, introduite par le Juzgado Contencioso-Administrativo Valladolid.

Renvoi préjudiciel – Directive 2011/7/UE – **Lutte contre le retard de paiement dans les transactions commerciales** – Recouvrement auprès d'un pouvoir public de créances cédées par des entreprises à une société de recouvrement – **Indemnisation pour les frais de recouvrement exposés par le créancier en cas de retard de paiement du débiteur** – Article 6 – Montant forfaitaire minimal de 40 euros – Transactions entre entreprises et pouvoirs publics – Article 4 – Procédure de certification de la conformité des marchandises ou des services – Délai de paiement – Article 2, point 8 – Notion de "montant dû" – Prise en compte de la taxe sur la valeur ajoutée aux fins du calcul des intérêts de retard.

[EUR-Lex - 62020CJ0585](#)

Case C-431/21. Judgment of the Court (Ninth Chamber) of 13 October 2022. X GmbH & Co. KG v Finanzamt Bremen. Request for a preliminary ruling from the Finanzgericht Bremen.

Reference for a preliminary ruling – **Freedom of establishment and freedom to provide services** – Corporation tax – Determination of the taxable income of companies – Transactions featuring foreign elements – **Obligation to provide fiscal documentation of business relations between parties with a relationship of interdependence** – Estimate of the taxable income and surcharge by way of a penalty.

[EUR-Lex - 62021CJ0431](#)

Joined Cases C-433/21 and C-434/21. Judgment of the Court (Eighth Chamber) of 6 October 2022. Agenzia delle Entrate v Contship Italia SpA. Requests for a preliminary ruling from the Corte suprema di cassazione.

References for a preliminary ruling – Direct taxation – **Freedom of establishment** – Corporate income tax – **Measures to prevent tax avoidance by shell companies** – Determination of taxable income on the basis of presumed minimum income – Exclusion from the scope of those measures of companies and entities listed on national regulated markets.

[EUR-Lex - 62021CJ0433](#)

15. Intellectual Property

Case Law

Affaire C-197/21. Arrêt de la Cour (cinquième chambre) du 27 octobre 2022. Soda-Club (CO2) SA et SodaStream International BV contre MySoda Oy. Demande de décision préjudicielle, introduite par le Korkein oikeus.

Renvoi préjudiciel – Droit des marques – Règlement (UE) 2017/1001 – Article 15, paragraphe 2 – Directive (UE) 2015/2436 – Article 15, paragraphe 2 – **Épuisement du droit conféré par la marque** – Bouteilles contenant du dioxyde de carbone – Mise en circulation dans un État membre par le titulaire de la marque – **Activité d'un revendeur consistant à remplir et réétiqueter des bouteilles** – Opposition formée par le titulaire de la marque – Motifs légitimes de s'opposer à une commercialisation ultérieure des produits revêtus de la marque.

[EUR-Lex - 62021CJ0197](#)

Case C-256/21. Judgment of the Court (Fifth Chamber) of 13 October 2022. KP v TV and Gemeinde Bodman-Ludwigshafen. Request for a preliminary ruling from the Oberlandesgericht München.

Reference for a preliminary ruling – **EU trade marks** – Regulation (EU) 2017/1001 – Article 124(a) and (d) – Article 128 – Jurisdiction of EU trade mark courts – Action for infringement – Counterclaim for a declaration of invalidity – Withdrawal of the action for infringement – Outcome of the counterclaim – **Autonomous nature of the counterclaim.**

[EUR-Lex - 62021CJ0256](#)

Case C-355/21. Judgment of the Court (Ninth Chamber) of 13 October 2022. Perfumesco.pl sp. z o.o., sp. k. v Procter & Gamble International Operations SA. Request for a preliminary ruling from the Sąd Najwyższy.

Reference for a preliminary ruling – Intellectual property – Directive 2004/48/EC – Enforcement of intellectual property rights – Article 10 – Corrective measures – Destruction of goods – **Concept of ‘infringement of an intellectual property right’** – Goods bearing an EU trade mark.

[EUR-Lex - 62021CJ0355](#)

16. Justice, Freedom and Security (incl. Judicial Cooperation)

Case Law

Case C-435/22 PPU. Judgment of the Court (Grand Chamber) of 28 October 2022. Criminal proceedings against HF. Request for a preliminary ruling from the Oberlandesgericht München.

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Judicial cooperation in criminal matters – Charter of Fundamental Rights of the European Union – Article 50 – Convention implementing the Schengen Agreement – Article 54 – **Principle ne bis in idem – Extradition agreement between the European Union and the United States of America** – Extradition of a third-country national to the United States under a bilateral treaty concluded by a Member State – **National who has been convicted by final judgment for the same acts and has served his sentence in full in another Member State.**

[EUR-Lex - 62022CJ0435](#)

Case C-825/21. Judgment of the Court (Fifth Chamber) of 20 October 2022. UP v Centre public d’action sociale de Liège. Request for a preliminary ruling from the Cour de cassation.

Reference for a preliminary ruling – Area of freedom, security and justice – Immigration policy – Directive 2008/115/EC – **Return of illegally staying third-country nationals** – Asylum application – Rejection – Order to leave the territory – Article 6(4) – Application for leave to remain for the purpose of medical treatment – Admissible application – Issuance of temporary leave to remain while the application is being examined – Dismissal of application – Social assistance – Refusal – Condition relating to the legality of the stay – No return decision – **Effect of temporary leave to remain on the order to leave the territory.**

[EUR-Lex - 62021CJ0825](#)

Affaire C-66/21. Arrêt de la Cour (quatrième chambre) du 20 octobre 2022. O.T. E. contre Staatssecretaris van Justitie en Veiligheid. Demande de décision préjudicielle, introduite par le Rechtbank Den Haag.

Renvoi préjudiciel – Contrôles frontaliers, asile et immigration – Politique d’asile – **Titre de séjour délivré aux ressortissants de pays tiers qui sont victimes de la traite des êtres humains ou ont fait l’objet d’une aide à l’immigration clandestine et qui coopèrent avec les autorités compétentes** – Directive 2004/81/CE – Article 6 – Champ d’application – Ressortissant d’un pays tiers alléguant avoir été victime d’une infraction liée à la traite des êtres humains – Bénéfice du délai de réflexion prévu à l’article 6, paragraphe 1, de cette directive – Interdiction d’exécuter une mesure d’éloignement – Notion – Portée – Computation de ce délai de réflexion – Règlement (UE) no 604/2013 – Critères et mécanismes de détermination de l’État membre responsable de l’examen d’une demande de protection internationale introduite dans l’un des États membres par un ressortissant de pays tiers ou un apatride – Transfert vers l’État membre responsable de l’examen de cette demande de protection internationale.

[EUR-Lex - 62021CJ0066](#)

Affaire C-604/20. Arrêt de la Cour (troisième chambre) du 20 octobre 2022. ROI Land Investments Ltd contre FD. Demande de décision préjudicielle, introduite par le Bundesarbeitsgericht.

Renvoi préjudiciel – Coopération judiciaire en matière civile – Règlement (UE) no 1215/2012 – Article 6 – **Défendeur non domicilié dans un État membre** – Article 17 – Compétence en matière de contrats conclus par les consommateurs – **Notion d’“activité professionnelle”** – Article 21 – Compétence en matière de contrats individuels de travail – Notion d’“employeur” – Lien de subordination – Règlement (CE) no 593/2008 – Loi applicable – Article 6 – Contrat individuel de travail – **Accord de garantie conclu entre le travailleur et une société tierce assurant l’exécution des obligations incombant à l’employeur envers ce travailleur.**

[EUR-Lex - 62020CJ0604](#)

17. Transport

Community Legislation

Directive (EU) 2022/1999 of the European Parliament and of the Council of 19 October 2022 on **uniform procedures for checks on the transport of dangerous goods by road**

[EUR-Lex - 32022L1999](#)

Regulation (EU) 2022/2038 of the European Parliament and of the Council of 19 October 2022 amending Council Regulation (EEC) No 95/93 as regards **temporary relief from the slot utilisation rules at Union airports due to an epidemiological situation or military aggression**

[EUR-Lex - 32022R2038](#)

Case Law

Case C-721/20. Judgment of the Court (Fourth Chamber) of 27 October 2022. DB Station & Service AG v ODEG Ostdeutsche Eisenbahn GmbH. Request for a preliminary ruling from the Kammergericht Berlin.

Reference for a preliminary ruling – Rail transport – Article 102 TFEU – Abuse of a dominant position – Directive 2001/14/EC – **Access to railway infrastructure** – Article 30 – Railway regulatory body – Review of infrastructure charges – National courts – **Review of charges in the light of competition law** – Division of competence between the regulatory authority and the national courts.

[EUR-Lex - 62020CJ0721](#)

Case C-390/21. Judgment of the Court (Eighth Chamber) of 27 October 2022. ADPA European Independent Automotive Data Publishers Association internationale Vereinigung ohne Gewinnerzielungsabsicht – IvoG – belgischen Rechts and Gesamtverband Autoteile-Handel e.V. v Automobiles PEUGEOT SA and PSA Automobiles SA. Request for a preliminary ruling from the Landgericht Köln.

Reference for a preliminary ruling – Market for vehicle repair and maintenance information services – Regulation (EU) 2018/858 – Article 61 – **Obligation on automotive manufacturers to provide vehicle repair and maintenance information** – Scope – Right of access to that information – Independent operators – Publishers of technical information – Article 63 – Reasonable and proportionate fees for access.

[EUR-Lex - 62021CJ0390](#)

Joined Cases C-68/21 and C-84/21. Judgment of the Court (Sixth Chamber) of 27 October 2022. Iveco Orecchia SpA v APAM Esercizio SpA and Brescia Trasporti SpA. Requests for a preliminary ruling from the Consiglio di Stato.

References for a preliminary ruling – Approximation of laws – **Motor vehicles** – Directive 2007/46/EC – Technical specifications – **Offer to supply spare parts equivalent to the originals of a specific mark** – Absence of proof of type-approval – Declaration of equivalence to the original by the tenderer – Concept of ‘manufacturer’ – Means of proof – Public procurement – Directive 2014/25/EU.

[EUR-Lex - 62021CJ0068](#)

Case C-111/21. Judgment of the Court (Third Chamber) of 20 October 2022. BT v Laudamotion GmbH. Request for a preliminary ruling from the Oberster Gerichtshof.

Reference for a preliminary ruling – Air transport – **Montreal Convention** – Article 17(1) – **Liability of air carriers for death or bodily injuries sustained by passengers** – Concept of ‘bodily injury’ – Post-traumatic stress disorder suffered by a passenger during the emergency evacuation of an aircraft.

[EUR-Lex - 62021CJ0111](#)

Case C-436/21. Judgment of the Court (Eighth Chamber) of 6 October 2022. flightright GmbH v American Airlines, Inc. Request for a preliminary ruling from the Bundesgerichtshof.

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 3(1)(a) – Scope – Article 2(f) to (h) – Concept of ‘ticket’ – Concept of ‘reservation’ – **Concept of ‘connecting flight’** – Reservation through a travel agency – Article 7 – **Compensation for air passengers in the event of a long delay to a flight** – Transport operation consisting of a number of flights operated by separate operating air carriers – Connecting flight departing from an airport located in a Member State with a stop in Switzerland and final destination in a third country.

[EUR-Lex - 62021CJ0436](#)

Case C-266/21. Judgment of the Court (Third Chamber) of 6 October 2022. Criminal proceedings against HV.

Request for a preliminary ruling from the Sofiyski gradski sad.

Reference for a preliminary ruling – Common transport policy – Directive 2006/126/EC – Article 11(2) and (4) – Suspension of the right to drive a motor vehicle – Driving licence issued by the Member State of normal residence in exchange for a driving licence issued by another Member State – **Refusal by the first Member State to enforce a decision suspending the right to drive adopted by the second Member State** – Obligation for the second Member State not to recognise, in its territory, the validity of the driving licence that has been suspended.

[EUR-Lex - 62021CJ0266](#)

18. Community Institutions, Principles and the Communities’ own Resources

Nothing to report for the period under review.